

**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH**

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**2023:PHHC:120169**

**CRM-M-44291-2023**

Date of decision: September 13<sup>th</sup>, 2023

Malkit Singh @ Bago

.....Petitioner

Versus

State of Punjab

.....Respondent

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present: Mr. Rajiv Kumar Saini, Advocate  
for the petitioner.

Mr. Amit Rana, Senior Deputy Advocate General, Punjab.

**MANJARI NEHRU KAUL, J. (ORAL)**

The petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.121 dated 25.12.2022 under Sections 21, 21 (B), 23, 27 (A), 29 of the NDPS Act (Section 411 of the IPC added later on) registered at Police Station Kalanaur, District Gurdaspur.

2. Learned counsel for the petitioner, *inter alia*, contends that it is, on the face of it, a case of false implication as no contraband much less heroin, was effected from the petitioner. Learned counsel submits that later on a recovery of ₹1,54,000/- was shown to have been effected from the house of the petitioner, which was alleged to be drug money. Learned counsel submits that after the petitioner was arrested on 25.12.2022, challan had been presented and even charges stood framed, however, none of the 15 prosecution witnesses had been examined till date. Hence, there was no likelihood of the trial concluding in the near future. Learned counsel has also submitted that similarly placed

co-accused Gurwinder Chand @ Kewra, from whom recovery of 10 grams of heroin along with drug money had been effected, had been granted the concession of bail by this Court vide order dated 09.08.2023. A prayer has, therefore, been made to extend the concession of bail to the petitioner as his further incarceration would serve no useful purpose.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, has not disputed the factum of any recovery of contraband having been effected from him, however, he submits that recovery of drug money totalling ₹1,54,000/- was effected from the house of the petitioner, pursuant to a secret information received. Learned State counsel has further not disputed that the case of the petitioner is at par with that of accused Gurwinder Chand @ Kewra, who has since been enlarged on bail by this Court.

4. I have heard learned counsel for the parties and perused the material placed on record.

5. The petitioner has been in custody since 25.12.2022 and after the charges were framed, none of the 15 prosecution witnesses had been examined. Hence, there is no likelihood of the trial concluding in the near future.

6. In the facts and circumstances as enumerated hereinabove, coupled with the nature of recovery effected, this Court deems it fit to extend the concession of bail to the petitioner, who as per instructions received by the learned State counsel, is not involved in any other criminal case much less under the NDPS Act. The instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the

Trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

7. Needless to say, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

**September 13<sup>th</sup>, 2023**  
*Puneet*

**(MANJARI NEHRU KAUL)**  
**JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : No